

**Effective 5/10/2016**

**34A-2-703 Payments from Employers' Reinsurance Fund.**

If an employee, who has at least a 10% whole person permanent impairment from any cause or origin, subsequently incurs an additional impairment by an accident arising out of and in the course of the employee's employment during the period of July 1, 1988, to June 30, 1994, inclusive, and if the additional impairment results in permanent total disability, the employer or its insurance carrier and the Employers' Reinsurance Fund are liable for the payment of benefits as follows:

- (1) The employer or its insurance carrier is liable for the first \$20,000 of medical benefits and the initial 156 weeks of permanent total disability compensation as provided in this chapter or Chapter 3, Utah Occupational Disease Act.
- (2) Reasonable medical benefits in excess of the first \$20,000 shall be paid in the first instance by the employer or its insurance carrier. Then, as provided in Subsection (5), the Employers' Reinsurance Fund shall reimburse the employer or its insurance carrier for 50% of those expenses.
- (3) After the initial 156-week period under Subsection (1), permanent total disability compensation payable to an employee under this chapter or Chapter 3, Utah Occupational Disease Act, becomes the liability of and shall be paid by the Employers' Reinsurance Fund.
- (4) If it is determined that the employee is permanently and totally disabled, the employer or its insurance carrier shall be given credit for all prior payments of temporary total, temporary partial, and permanent partial disability compensation made as a result of the industrial accident. An overpayment by the employer or its insurance carrier shall be reimbursed by the Employers' Reinsurance Fund under Subsection (5).
- (5)
  - (a)
    - (i) Upon receipt of a duly verified petition, the Employers' Reinsurance Fund shall reimburse the employer or its insurance carrier for the Employers' Reinsurance Fund's share of medical benefits and compensation paid to or on behalf of an employee.
    - (ii) A request for Employers' Reinsurance Fund reimbursements shall be accompanied by satisfactory evidence of payment of the medical or disability compensation for which the reimbursement is requested.
    - (iii) A request is subject to review as to reasonableness by the administrator. The administrator may determine the manner of reimbursement.
  - (b) A decision of the administrator under Subsection (5)(a) may be appealed in accordance with Part 8, Adjudication.
  - (c) An employer or its insurance carrier shall submit to the Employers' Reinsurance Fund, by June 30, 2018, a request for reimbursement related to medical benefits or compensation paid on or before July 1, 2016.
  - (d) An employer or its insurance carrier shall submit to the Employers' Reinsurance Fund a request for reimbursement related to medical benefits or compensation paid after July 1, 2016, within 24 months of the later of:
    - (i) the date the benefits or compensation are paid by the employer or its insurance carrier; or
    - (ii) the date the Employers' Reinsurance Fund is determined to be liable.
  - (e) Requests for reimbursement not submitted in accordance with Subsection (5)(c) or (5)(d) are considered untimely and the Employers' Reinsurance Fund may not reimburse the benefits or compensation paid.
- (6) If, at the time an employee is determined to have a permanent, total disability, the employee has other actionable workers' compensation claims, the employer or insurance carrier that is liable for the last industrial accident resulting in permanent total disability shall be liable

for the benefits payable by the employer as provided in this section and Section 34A-2-413. The employee's entitlement to benefits for prior actionable claims shall then be determined separately on the facts of those claims. A previous permanent partial disability arising out of those claims shall then be considered to be impairments that may give rise to Employers' Reinsurance Fund liability under this section.

Amended by Chapter 235, 2016 General Session